

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|--------------------------------|---|--------------------------|
| FRANK RIVERA, |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Civil Action No. 10-1599 |
| |) | Judge McVerry/ |
| PA. DEPARTMENT OF CORRECTIONS, |) | Magistrate Judge Bissoon |
| et al., |) | |
| Defendants. |) | |

MEMORANDUM ORDER

The above-captioned *pro se* prisoner civil rights action was received by the Clerk of Court on December 1, 2010, and was referred to United States Magistrate Judge Cathy Bissoon for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D.

Magistrate Judge Bissoon's Report and Recommendation, ECF No. 5, was filed on February 14, 2011 and recommended that Plaintiff's *in forma pauperis* motion be denied and that he pay the filing fee by March 5, 2011 or face dismissal for failure to prosecute without any further warning. Service of the Report was made on the Plaintiff at his address of record. Plaintiff was informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and with the local rules, that he had until February 28, 2011 in which to file his objections. Plaintiff filed no objections.

Accordingly, after *de novo* review of the pleadings and the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 24th day of March, 2011;

IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to Proceed *in forma pauperis*

DENIED. Furthermore because Plaintiff failed to pay the filing fee by March 5, 2011, the case is dismissed due to Plaintiff's failure to prosecute.

IT IS FURTHER ORDERED that the Report and Recommendation, ECF No.5, filed on February 14, 2011 by Magistrate Judge Bissoon, is adopted as the opinion of the Court. The Clerk is to mark the case closed.

s/Terrence F. McVerry
Terrence F. McVerry
U.S. District Judge

Dated: March 24, 2011

cc: The Honorable Cathy Bissoon
United States Magistrate Judge

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